

## **STAFF REPORT**

**DATE:** October 3, 2007 (Public Hearing) (continued from April 4<sup>th</sup>, 2007)

**TO:** Planning & Zoning Commission

**FROM:** Shannon Tuch, RLA, Interim Director, Planning & Development

**PREPARED BY:** Alan Glines, Urban Planner

**SUBJECT:** Wording Amendment to the City of Asheville Unified Development River District

### **Background:**

The River District is developed to celebrate, conserve, promote, and manage those areas on both sides of the French Broad and Swannanoa Rivers. The standards seek to encourage economic revitalization throughout the river valleys in a manner that complements the natural environment of the river. The River District is unique in that it allows any use that is not specifically prohibited in the list of uses or allowed in the district with special requirements.

This wording amendment is based on numerous conversations since the 2004 floods, recent rezoning conversations regarding River district properties, comments and direction from City Council and recent staff awareness of state statutes restricting certain uses in flood hazard areas staff became aware of the need for changes to the district. After the initial submittal to the Planning and Zoning Commission two meetings were held with members of a river related focus group to review the changes. Some of the changes were endorsed by the group; other items may not have complete consensus with the group.

The changes focus on uses that have the potential for environmental degradation from chemical or petroleum spills or pollution through downstream displacement of floatables during a flood event. The changes would also allow the automobile salvage yard and other salvage yards in areas not subject to the flood hazard area restrictions on sites in both the River and Industrial District. The remainder of the new additions to the River District prohibited use includes:

- Chemical Storage facilities
- Hazardous waste management facilities
- Solid waste disposal facilities

In addition, the following uses are proposed to be added to the River District Uses by Right Subject to Special Requirements (USSR) section with restrictions that if they are operated in a way that met FEMA standards (such as but not limited to operating in an enclosed building or outside of the flood hazard area), would pose little threat of damage from flooding:

- Automobile salvage yard
- Automobile, truck other vehicle servicing and repairs
- Outdoor storage
- Recycling centers

- Recycling collection centers
- Recycling plant
- Salvage yard
- Storage tanks and containers mounted above ground
- Tanks used for storage of chemicals, oil or fuel subordinate to a use that is allowed in the river district

Vicki Escude; Praji work; Praji Sakata; Susan Hill

The special requirements for the recycling uses focuses on operating the use in an enclosed building meeting FEMA regulations. The storage tanks will be required to be secured and elevated above the regulated flood level. The Salvage yard and Automobile, truck and vehicle servicing and repair would be allowed outside of the regulated flood hazard areas of a site. For salvage yards this is in agreement with the NC State adopted statute. Outdoor storage areas are proposed to be located on the site but elevated to meet FEMA regulations.

Staff also recommends minor changes to the Industrial District to complement what is being proposed in the River District. This is to ensure that there are sufficient places for the needed services and businesses to operate within the City of Asheville. Due to the heavy impact and character of the Industrial District, the addition of these proposed uses should not impact the district in a negative way. The proposed items listed below would be added to the USSR section for the Industrial District:

- Automobile Salvage Yards
- Automobile, truck and other vehicle servicing, repairs
- Salvage Yard

These three uses noted above are proposed to be allowed except in the FEMA regulated flood hazard areas.

Finally staff is proposing an amendment to the definition of salvage yard for the purposes of regulating the use.

**Staff Recommendation:** Staff recommends approval of the proposed ordinance amendments to River District.

**Pros:**

- Removes environmentally hazardous uses from the River District resulting in improvements to water quality.
- Removes the opportunity for unenclosed floatables and reduces potential for downstream obstructions during a flood event.
- Brings City requirements in alignment with State Statutes.
- Retains the opportunity for storage and operations of some uses when located in structures meeting flood hazard standards.
- Industrial Districts provide additional opportunities for some uses with reasonable restrictions.

**Cons:**

- Some existing uses will be non-compliant.
- Grandfathered uses will have limited expansion potential unless they comply with the ordinance changes ( a potential pro).

ORDINANCE NO.

ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE  
CITY OF ASHEVILLE TO AMEND THE RIVER DISTRICT

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WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, a comprehensive amendment to the City's zoning regulations was adopted on May 27, 1997, (Ordinance No. 2369) and is codified in Chapter 7 of the Asheville City Code (herein "Zoning Ordinance"), and maps dividing and classifying the property within the City's zoning jurisdiction were adopted on May 27, 1997 (Ordinance No. 2370) and are on file and maintained in the Offices of the Asheville City Planning and Development Department (herein "Official Zoning Map"); and

WHEREAS, this proposed amendment is consistent with the City's 2025 Comprehensive Plan, Smart Growth policies, and other official plans of the City for the reasons set out in the Staff Report, which is hereby adopted and incorporated by reference; and

WHEREAS, this proposed ordinance is determined to be reasonable and in the public interest as follows:

- a. Improve water quality;
- b. Reduce potential for downstream obstructions; reduces losses during a flood event;
- c. Is in keeping with city adopted plan for the river district areas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Chapter 7 of the Asheville City Code be amended as follows:

Sec. 7-8-19 (c) River District is revised and replaced with,

(c) *Prohibited uses*. The following uses are prohibited in the River District:

Adult establishments

Asphalt plants

Businesses manufacturing or storing materials listed as H1 hazardous materials as identified in the current version of the North Carolina State Building Code

Chemical Storage facilities

Detention centers, jails, and related correctional facilities

Gas manufacturing

Hazardous waste management facilities

Manufacture or storage of ammunition, dynamite, or other high explosives

Mining

Paper Mills

Slaughter houses

Solid waste disposal facilities

Solid waste landfills

Uses prohibited by the Asheville Flood Protection Standards

Also, Section 7-8-19 (d) River District, *Uses by right subject to special requirements* revised and replaced with,

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Automobile salvage yard

Automobile, truck other vehicle servicing and repairs

Outdoor storage

Recycling centers

Recycling collection centers

Recycling plant

Salvage yard

Storage tanks and containers mounted above ground

Tanks used for storage of chemical, oil or fuel incidental to a use that is allowed in the district

Wireless telecommunication facilities, concealed

Wireless telecommunication facilities, co-located

Wireless telecommunication facilities, microcell

Also, Section 7-8-22 (d) Industrial District, Uses by right subject to special requirements to add the following uses:

Automobile salvage yard

Automobile truck, and other vehicle servicing and repair

Salvage yard

Also, Section 7-16-1 (b) Uses by right subject to special requirements section be amended to insert alphabetically and renumber.

(X) Automobile salvage yards (River District, Industrial District)

(X) Automobile, truck, and other vehicle; servicing and repairs (River District, Industrial District)

(X) Outdoor storage (River District)

(X) Recycling center (River District)

(X) Recycling collection center (River District)

(X) Recycling plant (River District)

(X) Salvage yard (River District, Industrial District)

(X) Storage tanks and containers mounted above ground (River District)

(X) Tanks used for storage of chemicals, oil or fuels incidental to a use that is allowed in the district (River District)

Also, Section 7-16-1 (c) Uses by right subject to special requirements section be amended to insert alphabetically and renumber.

(X) Automobile salvage yards

a. Use districts: River District, Industrial District

b. Use not permitted in the regulated flood hazard area.

(X) Automobile, truck, and other vehicle; servicing and repairs

a. Use districts: River District, Industrial District

b. Not permitted in the regulated flood hazard area.

(X) Outdoor storage

a. Use district: River District

b. Use elevated to meet FEMA regulations; except stone, gravel and mulch storage exempted

- (X) Recycling center
  - a. Use districts: River District
  - b. If located in the regulated flood hazard area then operated in an enclosed building meeting FEMA regulations
- (X) Recycling collection center
  - a. Use districts: River District
  - b. If located in the regulated flood hazard area then operated in an enclosed building meeting FEMA regulations
- (X) Recycling plant
  - a. Use districts: River District
  - b. If located in the regulated flood hazard area then operated in an enclosed building meeting FEMA regulations
- (X) Salvage yard
  - a. Use districts: River District, Industrial District
  - b. Not permitted in the regulated flood hazard area.
- (X) Storage tanks and containers mounted above ground
  - a. Use district: River District
  - b. Use not allowed in regulated floodway
  - c. Tanks to be secured and meet FEMA regulations
- (X) Tanks used for storage of chemicals, oil or fuels incidental to a use that is allowed in the district
  - a. Use district: River District
  - b. Tanks elevated and secured to meet FEMA regulations

Also, Section 7-5-2 Definitions, replace the definition of a salvage yard with the following:

*Salvage yard* means a non-residential property used for the storage, collection and / or recycling of any type of equipment including but not limited to vehicles, appliances and related machinery.

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance is effective upon adoption.

Read, approved, and adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

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City Clerk

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Mayor

Approved as to form:

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City Attorney